United Nations A/57/140

General Assembly

Distr.: General
2 July 2002
English
Original: English/Spanish

Fifty-seventh session
Item 111 (b) of the preliminary list*
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Question of enforced or involuntary disappearances

Report of the Secretary-General

Summary

In its resolution 55/103, on the question of enforced or involuntary disappearances, the General Assembly addressed requests to Governments, to the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights and to the Secretary-General, including a request to the Secretary-General to submit to it at its fifty-seventh session a report on the steps taken to implement the resolution. The present report is being submitted in accordance with that request.

In a note verbale dated 15 May 2002 the Secretary-General invited Governments to transmit any information pertaining to the implementation of resolution 55/103. As at 26 June 2002, replies had been received from the Governments of Argentina, Cuba and Guatemala. The replies are reproduced, as received, in the present report. Any additional replies will be compiled and submitted in addenda to the report.

In its report to the Commission on Human Rights at its fifty-eighth session, the Working Group highlighted developments in regard to two basic aspects of the situation of enforced and involuntary disappearances in the world: the practice of disappearance, which continues to occur in a number of countries, and the process of clarification of cases, especially those transmitted more than 10 years ago. The Group reiterated its appeal to Governments to cooperate with it and, in particular, to refrain from the practice of incommunicado detention and to release immediately all persons held in secret detention. The Group continued to remind Governments of

* A/57/50/Rev.1.

02-46045 (E) 090802 120802

their obligations under the Declaration on the Protection of All Persons from Enforced Disappearance, which are relevant not only for the clarification of individual cases, but also to prevent the occurrence of enforced disappearance. The Group recommended a number of preventive measures, including with regard to children, and it recommended that the Commission finalize the drafting of a legally binding normative instrument for protection from enforced disappearance.

In 2001, the Group completed a long process of reviewing its methods of work and presented the results to the Commission.

The Group expressed grave concern about its present limited financial resources and acute shortage of staff, and reiterated its appeal to the Commission to allocate the appropriate resources.

Finally the present report contains information on the activities undertaken by the Secretariat in compliance with the requests contained in resolution 55/103.

Contents

		Paragraphs	*Pa*
I.	Introduction	1–6	
II.	Replies received from Governments	7–65	
	A. Argentina	7–29	
	B. Cuba	30–49	
	C. Guatemala	50–65	
III.	Activities of the Working Group on Enforced or Involuntary Disappearances in 2001	66–71	
IV.	Activities undertaken by the Secretariat	72–76	
V.	Conclusions and recommendations	77–81	

I. Introduction

1. In its resolution 55/103, entitled "Question of enforced or involuntary disappearances", the General Assembly reaffirmed that any act of enforced disappearance is an offence to human dignity and a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in other international instruments in this field, as well as a violation of the rules of international law. In the same resolution, the General Assembly addressed several requests to Governments to the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights and to the Secretary-General.

2. In that resolution, the General Assembly reminded Governments that impunity contributes to the perpetuation of this phenomenon and constitutes an obstacle to the elucidation of its manifestations, and that if allegations are confirmed perpetrators should be prosecuted. It encouraged States to provide concrete information on measures taken to give effect to the Declaration on the Protection of All Persons from Enforced Disappearance, as well as obstacles encountered.

3. The General Assembly requested all States to consider the possibility of disseminating the text of the Declaration in their respective national languages and to facilitate its dissemination in local languages. It also expressed its profound thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information and to the Governments that have invited the Group to visit their countries, requested them to give all necessary attention to its recommendations and invited them to inform it of any action they take on those recommendations.

4. Accordingly, in a note verbale dated 15 May 2002, the Secretary-General invited Governments to transmit relevant information on the subject. As at 26 June 2002, replies had been received from the Governments of Argentina, Cuba and Guatemala. The replies are reproduced, as received, in section II of the present report. Any additional replies will be compiled and submitted in addenda to the report.

5. Furthermore, in its resolution 55/103, the General Assembly recalled the importance of the Working Group on Enforced or Involuntary Disappearances and requested it to take into account the provisions of the Declaration and to modify its working methods, if necessary, and to pay the utmost attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned to search for and identify those children.

6. Finally, in the same resolution, the General Assembly requested the Secretary-General to continue to provide the Working Group with all of the facilities it requires to perform its functions, to keep it informed of the steps he takes to secure the widespread dissemination and promotion of the Declaration, and to submit to it at its fifty-seventh session a report on the steps taken to implement the resolution. The present report is being submitted to the General Assembly in accordance with that request.

II. Replies received from Governments

A. Argentina

[Original: Spanish]

7. In view of its experience in this area, the Republic of Argentina has been working to secure the support of international organizations on this question.

8. Argentina has been promoting the elaboration of an international instrument for the prevention and punishment of the enforced disappearance of persons.

Machinery for determining the fate of disappeared persons in the Republic of Argentina

National Commission on the Disappeared

9. Presidential Decree No. 187 of December 1983 established the National Commission on the Disappeared (CONADEP), composed of prominent individuals, which has made a recognized public commitment to uphold the basic values underlying all civilized coexistence.

10. The CONADEP Committee was charged with clarifying the facts surrounding the disappearance of persons in Argentina (article 1 of the Decree) and was accordingly assigned the following functions: to

receive depositions and evidence concerning those events and pass the information to the courts in those cases where crimes had been committed; to establish the fate or whereabouts of disappeared persons, as well as any other circumstance that might help to find them; to ascertain the location of children abducted from their parents or guardians, allegedly with the aim of combating terrorism; and to consult, wherever necessary, agencies and courts dealing with the protection of minors; to report to the authorities any intent to conceal, steal or destroy evidence related to the events to be clarified; and to produce a final report, including a detailed description of the facts of the case, within 180 days of the beginning of the investigation.

11. CONADEP handled 8,400 cases of disappeared or assassinated persons. Not all cases concerned just one individual: some concerned a group of individuals, collective actions, etc. CONADEP also conducted inspections of the so-called Clandestine Detention Centres. In September 1984 the Commission submitted its final report, entitled *Nunca Más* ("Never Again!"), with an Annex giving the names of all disappeared persons and all persons discovered in the clandestine centres, as well as the names of all the centres. The number of persons who were either "disappeared" or assassinated is estimated to exceed the number of complaints received by CONADEP because inter alia not all cases are reported and because the tactics of repression prevent many victims' relatives from submitting complaints. The Human Rights Secretariat (SDH), which has now assumed responsibility for handling CONADEP files, continues to receive reports of enforced disappearances.

12. The CONADEP report, and its title, became symbols of the Argentine people's right to know the truth. The report describes the State's policy of repression and its aberrant methods, which included kidnappings, torture, disappearances, assassinations, secret burials, abduction of children and the use of clandestine detention centres.

Right to the truth — the fate of the disappeared

13. When the *punto final* ("Full Stop") and *obediencia debida* ("Due Obedience") laws had been adopted and the pardons were granted, court cases were frozen and shelved. The possibility of gaining access to information about human rights violations and disappeared persons during the period of State terrorism was curtailed. However, for a number of very different reasons, certain information about the events did come into the public domain.

14. Relatives of the victims then demanded that an investigation be opened and that the Government take the necessary action to ensure access to any available information about what happened to loved ones who had either been killed or caused to disappear, and about their ultimate fate. Relatives also took their case into the international arena, specifically, to the Inter-American Commission on Human Rights.

15. After much debate as to the best way to answer their appeals, the State's response ultimately took a dual form, comprising the so-called truth trials, on the one hand, and the work of the Human Rights Secretariat, on the other.

Truth trials

16. The truth trials have been held throughout the country. The procedures used are broad and open in order to ensure that as much information as possible will be uncovered.

17. Around 3,670 cases of human rights violations or enforced disappearances that occurred during the period of State terrorism are presently being investigated in various truth trials being held at federal chambers and courts around the country.

18. The so-called truth trials operate in conformity with international human rights law. The action of the Inter-American Commission on Human Rights was in compliance with the obligation to implement the provision contained in its report No. 28/92, which recommends that: "The Inter-American Commission on Human Rights recommends that the Government adopt the measures necessary to clarify the facts and identify those responsible for the human rights violations that occurred during the past military dictatorship". With respect to the individual case opened in the enforced disappearance of Claudia Lapacó, the Government of Argentina and Carmen Aguilar de Lapacó reached an amicable settlement under which the Government agreed to take the necessary steps to ensure that National Courts of the federal criminal and corrections system throughout the country would be given exclusive jurisdiction to rule in truth trials.

19. The truth trials may be initiated either by the courts, under the ad hoc prosecutorial commission set

up by the Attorney General, or at the request of the interested party.

The task of the Human Rights Secretariat

20. The Human Rights Secretariat, which is now responsible for handling the CONADEP records and any other subsequent complaints, regularly supplies the "truth trials" with substantive information about enforced disappearances, assassinations and clandestine centres, as well as any other information related to the consequences of State terrorism. All such information is freely available to victims and their relatives.

21. Thanks to the Secretariat's work and based on information unavailable 25 years ago, it has been possible to identify additional clandestine detention centres.

22. To this we should add the Human Rights Secretariat's recent achievements regarding policies on reparations for relatives of disappeared persons (Act No. 24.411, article 1), relatives of persons killed as a result of State repression (Act No. 24.411, article 2) and relatives of illegally detained persons (Act No. 24.043).

23. The investigations of the truth trials and the work of the Secretariat are responsible for some of those achievements, including: identification of individuals through exhumation of mass graves or clandestine burial plots; identification of individuals whose death certificates have been issued; discovery of individuals buried in unmarked graves located in the course of court proceedings, the Court having ruled that they be issued death certificates; and identification of individuals about whom there was sufficient evidence of their death to warrant listing them as deceased on death certificates. (In many cases, a death certificate was issued even when the person's remains had not been found — for example because they were buried in unmarked graves in a section of the cemetery that had subsequently been landscaped or because orders were given to transfer them to the public ossuary, or simply relocated, without any notation to that effect in cemetery records.)

Digitalizing of files and records on State terrorism

24. The Human Rights Secretariat is in the process of digitalizing images from the CONADEP files, the CONADEP/SDH files (those created after CONADEP had been succeeded by SDH), the Supplementary Sources, the files of the Register of Disappeared and Deceased, and files related to the measures and laws on reparations. In the initial phase of the process, 800,000 double sheets of records will be converted to digital form. The ultimate goal is to create a comprehensive data system, combining and integrating the different sets of files together with current and future data, and to preserve information of historical importance in the existing files of the Human Rights Secretariat, converting the images into digital form and eliminating manual processing.

25. The system will incorporate a powerful search engine, similar to the Excalibur engine, which will make it possible to cross-reference data from all the various sources, based on names, circumstances, contexts, methods used, etc. The project is expected to take 180 days.

National Commission on the Right to An Identity

26. The National Commission on the Right to An Identity (CONADI) replaces Regulation No. 1.328/92 of the Secretariat for Human and Social Rights in the Ministry of the Interior, which created a technical committee charged with coordinating the search for disappeared children having a known identity and those born to women in detention. The Commission is also responsible for ensuring compliance with the commitments made by the State where it ratified the section of the Convention on the Rights of the Child on the right to an identity.

27. Subsequently, resolution No. 1392/98 of the Ministry of the Interior created CONADI, which had the same functions and retained the same composition as its predecessor: two representatives of the Public Prosecutor's Office, one from the Attorney General's Office, two representatives from the *Asociación Abuelas de Plaza de Mayo*, and two representatives of the Executive Branch (*Poder Ejecutivo Nacional*) (at the suggestion of the Human Rights Secretariat). The Commission is chaired by a member of the Human Rights Secretariat.

28. CONADI's general objective is to ensure compliance with the Convention on the Rights of the Child, especially the provisions contained in its articles 7 and 8.

29. The Commission's specific goals are as follows: to intervene in cases of young people who apply on

their own to investigate and follow up unreported cases of disappeared pregnant women; to intervene in cases of the trafficking of minors; to intervene in cases where personal details are incomplete, due to State terrorism; to provide legal advice in cases of damaged identity; to handle and investigate complaints; to give advice in legislative matters at the request of the Executive Branch or of national or provincial courts; to promote awareness of the right to identity, through seminars, courses, workshops, TV and radio spots, the written media and the Internet; to answer requests from legal or other State offices regarding the kidnapping of minors; and to supply tests for the National Genetic Database.

B. Cuba

[Original: Spanish]

30. It is the view of Cuba that the issue of enforced or involuntary disappearances must be addressed in the context of all its related aspects, through actions and measures designed to ensure that such horrific crimes are not repeated anywhere else. Cuba therefore supports efforts to draft an integrated and comprehensive international convention on this matter. However, this will be possible only provided the focus combines the prevention and education aspects, the question of judicial responsibility and the resolute imposition of penalties.

31. Another extremely important aspect to be taken into consideration is the need to link present and future actions with the fight against impunity for those responsible for such actions in the past.

32. It should be noted that in some countries, the practice of enforced and involuntary disappearances has recently become a sort of institutional policy. The subsequent failure by those countries to take the concrete actions and measures necessary to ensure due enforcement of the law, and, in some cases, the adoption by those countries of laws guaranteeing impunity for those responsible for such crimes, merits unreserved condemnation and urgent and concrete action on the part of the international community.

33. Many relatives of victims of enforced or involuntary disappearances are demanding justice. Many do not even know the whereabouts of their loved ones.

34. Among the most glaring and egregious examples of the criminal brutality that characterizes the systematic practice of enforced or involuntary disappearances is the experience of the Latin American region during the bloody military dictatorships that came to power during the 1960s and 1970s and, in certain cases, even up to the 1980s. These dictatorships pursued preconceived plans, which were directed and supported in various ways by the Government of the United States of America, which sought to halt the advance of democratic and progressive ideas in the region.

35. Even the training of the "human capital" responsible for the gross and flagrant violations of human rights that occurred during the region's era of military dictatorships was carried out by the United States, and especially by the notorious School of the Americas.

36. Over the years, the officers corps of a group of primarily Latin American countries were trained in the so-called School of the Americas, which was the leading military installation run by the United States, first in the Panama Canal zone and later in the United States itself. The graduates constituted the foundation for the dictatorships imposed in the various countries.

37. The textbooks and practical demonstration classes provided by the School of the Americas offered training, guidance and encouragement for the worst and most aberrant forms of human rights violations and for the nascent Latin American military dictatorships, in particular during the 1970s.

38. It was on this premise that torture, political assassinations, abductions and enforced and involuntary disappearances were practised on a systematic basis, in order to repress popular movements and democratic political opposition movements.

39. The United States provided funding, as well as technical and material assistance, for that repression. Advice and logistical support provided by the United States enabled the various regional intelligence services to coordinate their efforts, thus facilitating the exchange of information and prisoners, and even joint assassinations.

40. Incontrovertible evidence of this sinister cooperation led by the United States, is the so-called Operation Condor, which was nothing more than a plot

by various security services in Latin America — including Argentina, Uruguay, Chile and Paraguay — to exchange information and work together to persecute elements regarded as subversive. This joint repressive action enabled intelligence agents and the armed forces of participating countries to move about freely in the territory of other States to abduct or kill their citizens or to cause their "disappearance".

41. These practices, which would certainly qualify as State terrorism, resulted in thousands of cases of people who were either killed, tortured or made to "disappear". Most of these cases remain unresolved, and those responsible have yet to be brought to justice.

42. The end of military dictatorships in Latin America and the transition to so-called representative democracy in most countries of the region has not succeeded in eradicating rooted practices involving violation of the human rights of individuals or peoples, either because these countries have adopted laws encouraging impunity or because they have pardoned or granted amnesty to those responsible for the most serious crimes.

43. The laws and provisions adopted by the different Latin American Governments that came to power after the end of the "military juntas" and de facto governments, such as the "Full Stop" and "Due Obedience" laws, or the Presidential Decrees of Pardon approved in Argentina, as well as the Amnesty Laws passed in Uruguay and Chile, have helped legitimize impunity in those countries.

44. To allow those responsible for such acts to go untried and unpunished is to tolerate and to leave intact the structures and attitudes that make such crimes possible and, essentially, to avoid responsibility for protecting the basic values underlying community life and the most basic of human rights, the right to life. Indeed, impunity even encourages a reversion to practices and prevents truth and justice from prevailing.

45. Cuba wishes to reiterate how important it is that those responsible for enforced or involuntary disappearances do not benefit from amnesty, a time-limit, a statute of limitations, a pardon or any other similar law or measure that might have the effect of exempting them from prosecution or a penalty.

46. The obligation to demand accountability for these human rights violations is one of the essential elements of any effective reparation for victims of such violations and a key factor not only in the prevention of further acts of this nature, but also in the creation of an equitable legal system and, ultimately, reconciliation and stability at both the national and international levels. The obligation to promote and protect human rights entails the obligation to punish and make reparation for the offence and the damage caused by violations of those rights.

47. Cuba therefore wishes to state once more that it is vital for countries that have a large number of cases pending before the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights to make constant and effective efforts to determine the fate of disappeared persons, including cases of hundreds of minors abducted with their parents or born during detention of their mothers in clandestine detention centres, and also how vital it is that perpetrators of such crimes be tried and punished accordingly.

48. With regard to the drafting of an international convention on this matter, Cuba believes that enforced and involuntary disappearances must be typified in that instrument as crimes against humanity thus establishing the inadmissibility of such crimes. The instrument must also declare null and void any previously adopted ruling abetting impunity or amnesty for perpetrators of such crimes.

49. The future convention must include, among the factors determining responsibility for enforced and involuntary disappearances in any part of the world, the foreign-policy actions of a State, whenever such actions have served, whether openly or covertly, to sponsor, encourage, protect, fund or train authorities responsible for enforced and involuntary disappearances in another State or other States.

C. Guatemala

[Original: Spanish]

Actions to prevent and penalize the practice of disappearances

50. As a result of the armed conflict that afflicted Guatemala for more than three decades, the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights received reports of a large number of enforced or involuntary

disappearances. Guatemala, the State, was requested by the Working Group to conduct the necessary investigations and searches for the disappeared persons. A specialized unit of the Presidential Human Rights Committee was charged with the task and has for a number of years been providing the Working Group with information about persons who have been tracked down.

51. In cases where investigations have been conducted without the related documents, it has been difficult to obtain information about disappeared persons. This is because it is often hard to recognize clues that might reveal the whereabouts of persons included in the lists of the Working Group. Despite these limitations, satisfactory results appear to have been achieved, while they may be insufficient compared with the number of cases reported. To date there is documentary evidence regarding 419 persons, 383 of whom were found to be alive and 36 deceased.

52. The causes of death of those 36 persons were as follows: unknown causes: 3; presumed dead: 7; intoxication: 1; natural causes: 21; firearm: 1; traffic accident: 1; deadly weapon: 2.

53. The 419 cases reported to the Working Group by the State of Guatemala may be broken down as follows: cases accepted by the Working Group as resolved: 198; cases not accepted (for lack of information): 82; cases still not reviewed by the Working Group: 136; cases with insufficient information: 3. With respect to the 198 cases accepted by the Working Group only one individual was found to be deceased. All the others have been found alive.

54. Between 1995 and 13 March 2000, Guatemala submitted 12 reports to the Working Group, demonstrating its desire to cooperate with the Working Group and to shed light on the atrocities of the past.

55. On 25 February 2000, Guatemala ratified the Inter-American Convention on Enforced Disappearance of Persons of the Organization of American States (OAS). In doing so, Guatemala demonstrated to States members of the OAS, and to the world in general, the commitment it has made to the international community to respect the human rights of all persons and to search for those who so tragically became victims of violence during the internal conflict, as well as to refrain from instituting such human rights violations.

Actions on behalf of disappeared children

56. Since May 1990, the Ministry of Public Health and Social Welfare, through the Mental Health League, has been investigating cases of the disappearance of children (whether enforced or due to other causes) during the internal armed conflict.

57. One of the League's most important actions is the programme *Todos por el Reencuentro* ("United for Reunion"), which works to locate, track down and reunite with their families children who disappeared during Guatemala's internal armed conflict. Due to the complex and broad nature of the phenomenon of disappearance, the *Todos por el Reencuentro* programme is designed to last for a period of 10 years.

58. Geographically, the programme will cover at least 100 of the Republic of Guatemala's 331 municipalities. It directly benefits relatives of children who have disappeared. Many are from rural areas, where families average five members and are mostly from the Maya ethnic group or the mixed-race population.

59. Around 155 cases of disappearance have been documented. Those cases have been followed up through research and investigation; psychosocial follow-up care has also been provided for relatives seeking information about their children. The *Todos por el Reencuentro* programme had organized three family reunions as of the end of 2001. A further 10 disappeared children had been located and expected to be reunited with their families in the near future.

60. The programme is being funded by the United Nations Children's Fund, the United Nations Development Programme and the Save the Children Fund (Sweden and Norway).

61. Eighty-three per cent of disappearances occurred in the towns of Ixcan, Chapul, Nebaj, Uspántan and Chicamán, all of which are in Quiché Province. The remaining reports referred to disappearances in Cobán and Chisec (Alta Verapaz); San Martín Jilotepeque (Chimaltenango); and Barillas (Huehuetenango).

Visit of the United Nations Special Representative on children and armed conflict

62. In January this year, Olara Otunnu, United Nations Secretary-General Kofi Annan's Special Representative on children and armed conflict, visited Guatemala to assess progress made since the end of the

internal armed conflict in 1996 and the impact of that conflict on the situation of children and youth.

63. Mr. Otunnu recommended that the Government create a national commission to determine the whereabouts of hundreds of children who disappeared during the internal armed conflict. This was one of the requests made by human rights organizations. He also asked the president of the Congress of the Republic of Guatemala to work on behalf of children affected by the armed conflict.

64. One of the commitments assumed by the Government following the Special Representative's visit is to establish a national commission to locate children who disappeared during the armed conflict. The commission will be made up of governmental and non-governmental organizations, and is being set up in accordance with one of the recommendations of the Historical Clarification Commission created under the Peace Agreements.

Dissemination of the text of the Declaration on the Protection of All Persons from Enforced Disappearance at the national level

65. In accordance with the request of the Secretary-General of the United Nations (para. 7 of resolution 55/103), the Government of Guatemala, through the Presidential Human Rights Committee, has planned coordinated actions to publicize the content of the Declaration, and notably the following: the Government will disseminate the content of resolution 55/103 on enforced or involuntary disappearances, through the departmental advisory committees that constitute the official forums for dialogue between local authorities and NGOs working in various parts of the country. It will disseminate information about resolution 55/103 through local and community radio stations and use other, alternative means of communication with a view to increasing and broadening coverage. It will implement the measures necessary to disseminate the Declaration, through the official national radio network, the *Diario de Centroamérica* newspaper, the *Diario Electrónico* ("Online Journal") and the online newspaper of the Presidential Secretariat for Social Communication.

III. Activities of the Working Group on Enforced or Involuntary Disappearances in 2001[1]

66. The Working Group continued to highlight further developments regarding two basic aspects of the situation of enforced or involuntary disappearance in the world. The first related to the practice of disappearance, which continues to occur in a number of countries. However, in recent years, there has been a decline in the number of disappearances reported to the Group. The second basic aspect related to the process of clarification of cases, especially those that were transmitted more than 10 years ago. During 2001, the Working Group clarified a total of 4,419 cases — the largest number that it has clarified in its 20 years of existence — the vast majority of which (4,390) related to cases in Sri Lanka. the process that led to these clarifications was initiated by the Working group during its three field missions in the 1990s, and constituted a concerted effort by the Government, the families of the disappeared persons, a consortium of non-governmental organizations and the Working Group. It reflects a new approach adopted by the Working Group. Referring also to other positive examples of past cooperation with Governments, such as those of Brazil and Mexico, it invited other Governments to follow those examples.

67. With regard to events that occurred more than 10 years ago, the Working Group expressed concern that the vast majority of the cases that it had clarified involved persons presumed dead. Of the 7,921 cases that it had clarified since the beginning of its activities in 1980, only 2,398 persons were still alive, a very small number relative to the total of 41,859 outstanding cases in its files. The Working Group therefore reiterated its appeal to all Governments concerned to cooperate with it and, in particular, to refrain from incommunicado detention and to release immediately all persons held in secret detention.

68. The Working Group continued to remind Governments of their obligations under the Declaration on the Protection of All Persons from Enforced Disappearance, relevant not only for the clarification of cases, but also to prevent the occurrence of enforced disappearance. It reiterated that its ultimate goal is the eradication of the phenomenon through the adoption of preventive measures, as provided for in the Declaration, in the Inter-American Convention on

Forced Disappearance of Persons of 1994 and in the draft international convention for the protection of all persons from forced disappearance. In this regard, the Working Group recommended the adoption of several preventive measures, including for the prevention and suppression of the abduction of children whose parents had been subjected to enforced disappearance and of children born during their mother's enforced disappearance. It also recommended that efforts be made to establish the identity of such children and return them to their families of origin.

69. Impunity is a root cause of enforced disappearance and a major obstacle to clarifying past cases. Hence, the Declaration obliges States to make all acts of enforced disappearance offences under domestic criminal law; to promptly, thoroughly and impartially investigate any allegation of enforced disappearance and to bring perpetrators to justice; to guarantee their trial only by competent ordinary courts and not by any other special tribunal, in particular military courts; and to exempt the criminal offence from statutes of limitations, special amnesty laws and similar measures that might exempt them from any criminal proceedings or sanction. The Working Group recommended that the Commission on Human Rights finalize, without further delay, the process of drafting a "legally binding normative instrument for the protection of all persons from enforced disappearance", as decided in the Commission's resolution 2001/46.

70. In 2001, the Working Group completed a long process of reviewing its methods of work, during the course of which it held a number of meetings with non-governmental organizations. The methods of work, as revised on 14 November 2001, are presented in annex I to its report to the Commission on Human Rights at its fifty-eighth session (E/CN.4/2002/79).

71. Finally, in its report to the Commission, the Working Group expressed grave concern about its inability, with the present limited financial resources and acute shortage of staff, to carry out the mandate assigned to it by the Commission and to fulfil its obligations. It reiterated its appeal to the Commission to meet the needs of the secretariat by allocating the appropriate resources, without which it would have difficulty implementing the various tasks assigned to it in the future. The Group once again expressed its deep appreciation to its secretariat for its dedication in the pursuance of the difficult tasks it had carried out in spite of the situation described above.

IV. Activities undertaken by the Secretariat

72. In conformity with resolution 55/103, the Department of Public Information of the United Nations Secretariat has undertaken several activities, including the distribution of the full text of the Declaration on the Protection of All Persons from Enforced Disappearance, published by the former Centre for Human Rights of the Secretariat.[2] The text continues to be distributed, through United Nations information centres, to United Nations peacekeeping offices and specialized agencies.

73. In addition, the Department's Public Liaison Service at Headquarters makes the Declaration available to the general public and educational institutes, upon request. The text of the Declaration is also available on the United Nations web site (www.un.org), under General Assembly resolutions.

74. In the field, reference libraries of the Department's network of information centres and information services, as well as other United Nations offices, have copies of publications containing the Declaration for use by interested academicians, researchers and students. Copies are also distributed to media and non-governmental organizations and at special events, such as the annual celebration of Human Rights Day and activities to mark the anniversary of the Universal Declaration of Human Rights.

75. In 2001, the Department of Public Information prepared a background press release for the Working Group on Enforced or Involuntary Disappearances at the end of its annual session at Headquarters. Every opportunity is used to promote the elements of the Declaration in United Nations and human rights-related briefings and events at New York Headquarters, at Geneva and throughout the network of United Nations information centres and services.

76. The Declaration is also actively distributed by the Office of the United Nations High Commissioner for Human Rights, through its field offices, to local non-governmental organizations and other interested parties, and is provided as background material for training projects on the administration of justice that are being developed within the framework of its advisory services, technical assistance and information programme.

V. Conclusions and recommendations

77. Referring to positive examples of past cooperation with Governments, such as those of Brazil and Mexico, in clarifying cases, the Working Group invited other Governments, particularly those of countries with a high number of outstanding cases, to follow those examples.

78. With regard to events that occurred more than 10 years ago, the Group expressed concern that the vast majority of cases that it had been able to clarify involved persons who were presumed dead. It reiterated its appeal to all Governments concerned to cooperate with it and, in particular, to refrain from incommunicado detention and to release immediately all persons held in secret detention.

79. Reiterating that its ultimate goal is the eradication of the phenomenon through the adoption of appropriate preventive measures, as provided for in the Declaration on the Protection of All Persons from Enforced Disappearance, in the Inter-American Convention on Forced Disappearance of Persons of 1994 and in the draft international convention for the protection of all persons from forced disappearance, the Working Group recommended the adoption of several preventive measures, including for the prevention and suppression of the abduction of children whose parents had been subjected to enforced disappearance and of children born during their mother's enforced disappearance. It also recommended that efforts be made to establish the identity of such children and return them to their families of origin.

80. The Working Group underlined the legal and judicial obligations of States under the Declaration. It recommended that the Commission on Human Rights finalize, without further delay, the process of drafting a legally binding normative instrument for the protection of all persons from enforced disappearance.

81. The Working Group once again expressed its sincere appreciation to the secretariat for its dedication in the pursuance of the difficult tasks it has to undertake, but also expressed grave concern about its inability, with the present limited financial resources and acute shortage of staff, to carry out the mandate assigned to it by the Commission and to fulfil it obligations. Pointing out that in recent years its secretariat staff has been dramatically reduced, it reiterated its appeal to the Commission to meet the needs of the secretariat by allocating the appropriate resources.

Notes

[1] See the Working Group's Report to the Commission on Human Rights at its fifty-eighth session (E/CN.4/2002/79).

[2] See Fact Sheet No. 6 (Rev.2).